



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105

Date: **APR 29 2019**

CERTIFIED MAIL NO.: 7017 2400 0000 3794 2440
RETURN RECEIPT REQUESTED

Mr. Juan Guillen Ortiz
President
Mendez-Ortiz Construction, Inc.
3165 California Street
San Francisco, CA 94115

Re: Alleged Violations of the Lead-Based Paint Pre-Renovation Education Rule and Renovation, Repair and Painting Rule

Dear Mr. Ortiz:

This letter is to notify you that the United States Environmental Protection Agency (EPA), Region IX is preparing to issue a civil administrative complaint against Mendez-Ortiz Construction, Inc. for violations of Sections 402 and 406 of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2682 and 2686, and their implementing regulations at 40 C.F.R. Part 745, Subpart E. The regulations at Subpart E comprise the Pre-Renovation Education (PRE) Rule under TSCA Section 406(b), 15 U.S.C. § 2686(b), and the Renovation, Repair and Painting (RRP) Rule under TSCA Sections 402(a) and (c), 15 U.S.C. §§ 2682(a) and (c). These Rules require that individuals and firms that engage in lead-based paint activities or perform renovation of pre-1978 housing for compensation are certified; owners and occupants of pre-1978 housing are provided with lead hazard information before lead-based paint activities or renovations begin; individuals and firms follow certain work practices during these lead-based paint activities or renovations; and individuals and firms that perform these lead-based paint activities or renovations keep certain reports and records documenting compliance with the Rules. In this case, the complaint will allege that Mendez-Ortiz Construction, Inc., violated the PRE and RRP Rules in 2017 and 2018 during renovations performed at 1200 Valencia Street, San Francisco, CA 94110, 745 Hyde Street, San Francisco, CA 94109, 795 Geary Street, San Francisco, CA 94109 and 171 Montecito Avenue, Oakland, CA 94610 by:

1. failing to obtain a certification from EPA to perform renovations for compensation before performing the renovations, in violation of **40 C.F.R. §§ 745.81(a)(2)(ii) and 745.89(a)**;


2. failing to provide the owners with a lead hazard information pamphlet before beginning the renovations, in violation of **40 C.F.R. § 745.84(a)(1)**;
3. failing to ensure that a certified renovator was assigned who discharged all the certified renovator responsibilities identified in 40 C.F.R. § 745.90 for the renovations, in violation of **40 C.F.R. § 745.89(d)(2)**;
4. failing to post signs clearly defining the work area and warning occupants and other persons not involved in renovation activities, in violation of **40 C.F.R. § 745.85(a)(1)**;
5. failing to contain the work area, in violation of **40 C.F.R. § 745.85(a)(2)**;
6. failing to keep documentation that a certified renovator was assigned to each renovation, in violation of **40 C.F.R. § 745.86(b)(6)**;
7. failing to keep documentation that a certified renovator provided on-the-job training for workers used on the renovations, in violation of **40 C.F.R. § 745.85(b)(6)**;
8. failing to keep documentation that a certified renovator performed or directed workers who performed all the work practice tasks described in 40 C.F.R. § 745.85(a) for the renovations, in violation of **40 C.F.R. § 745.86(b)(6)**; and
9. failing to keep documentation that a certified renovator performed the post-renovation cleaning verification described in 40 C.F.R. § 745.85(b) for the renovations, in violation of **40 C.F.R. § 745.86(b)(6)**.

EPA intends to seek civil penalties for these violations. Before filing the complaint, however, we are extending to you the opportunity to advise us of any factors that you believe EPA should consider before issuing the civil complaint. Relevant factors may include misidentification of the proper party, reliance on compliance assistance provided by EPA, financial factors bearing on your ability to pay a civil penalty, or lead-based paint test results conducted before the renovations showing that the properties were lead-based paint free. Even if you are unaware of any mitigating or exculpatory factors, we are extending to you the opportunity to initiate settlement discussions concerning the alleged violations.

Please find enclosed EPA's Consolidated Enforcement Response and Penalty Policy for the Pre-Renovation Education Rule; Renovation, Repair and Painting Rule; and Lead-Based Paint Activities Rule and the 2015 Update to the 1998 EPA Supplemental Environmental Project Policy to facilitate settlement discussions. In addition, we have enclosed the Small Business Regulatory Enforcement and Fairness Act (SBREFA) Information Sheet that provides information on compliance assistance to entities that may qualify as small businesses and their right to comment to the SBREFA Ombudsman concerning EPA enforcement activities. Please be advised that SBREFA does not eliminate your responsibility to timely respond to a complaint, information request, or other enforcement activity nor does it create any new rights or defenses under the law other than the right to comment to the SBREFA Ombudsman.

We plan to file the civil complaint against your company 30 calendar days after the date of your receipt of this letter unless you provide us with substantial reasons not to proceed as planned. If you wish to discuss this matter or initiate settlement discussions, please contact Christopher Rollins of my staff at (415) 947-4166 or have your attorney contact Carol Bussey in the Office of Regional Counsel at (415) 972-3950.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. McDaniel", is written over a light blue rectangular background.

Douglas K. McDaniel
Chief, Waste and Chemical Section
Enforcement Division

Enclosures